

Minute Order Form (06/97)

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Morton Denlow	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	99 C 6926	DATE	6/21/2000
CASE TITLE	Euromarket Designs, Inc. vs. Crate & Barrel, Ltd., et al.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

--

DOCKET ENTRY:

(1)	<input checked="" type="checkbox"/>	Filed motion of [use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> General Rule 21 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Plaintiff's motion for entry of default judgment is granted. Ent Injunction Order. Prove-up on damages set for 7/20/00 at 10:30 a.m.
(11)	<input checked="" type="checkbox"/>	[For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		<div style="text-align: right;"> Document Number <div style="font-size: 2em; margin-top: 20px;">34</div> </div>
<input type="checkbox"/>	No notices required.		
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		
<input type="checkbox"/>	Notified counsel by telephone.		
<input type="checkbox"/>	Docketing to mail notices.		
<input type="checkbox"/>	Mail AO 450 form.		
<input type="checkbox"/>	Copy to judge/magistrate judge.		
<div style="display: flex; justify-content: space-between;"> <div>DK</div> <div>courtroom deputy's initials</div> </div>		<div style="text-align: center;"> <div>1174 number of notices</div> <div style="font-size: 1.5em; margin-top: 5px;">JUN 23 2000</div> <div>date docketed</div> <div style="font-size: 1.5em; margin-top: 10px;">JP</div> <div>docketing deputy initials</div> <div>6/22/2000</div> <div>date mailed notice</div> <div>DK</div> <div>mailing deputy initials</div> </div>	
		Date/time received in central Clerk's Office	

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

EUROMARKET DESIGNS, INC.
d/b/a CRATE & BARREL,

Plaintiff,

vs.

CRATE & BARREL LIMITED,

Defendant.

Case No. 99 C 6926

Judge Morton Denlow

INJUNCTION ORDER

**DOCKETED
JUN 23 2000**

Plaintiff, EUROMARKET DESIGNS, INC. d/b/a CRATE & BARREL ("Plaintiff"), has moved this Court, with notice to Defendant, CRATE & BARREL LIMITED ("Defendant"), for a Default Order pursuant to Federal Rule of Civil Procedure 55. This Court has reviewed and given full consideration to Plaintiff's submissions and the relevant authorities, and finds there is good cause to issue an Injunction Order against Defendant, in accordance with Federal Rule of Civil Procedure 55.

IT IS HEREBY ORDERED AND ADJUDGED as follows:

1. This is a civil action for federal trademark infringement under §§ 32 and 35 of the Lanham Act, 15 U.S.C. §§ 1114(1) and 1117 (Count I), false designation of origin under § 43 of the Lanham Act, 15 U.S.C. § 1125(a) (Count II), and deceptive trade practices under the Uniform Deceptive Trade Practices Act 815 ILCS 510/2 (Count III).

2. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1331, 1332 and 1338, and the principles of supplemental

24

jurisdiction pursuant to 28 U.S.C. § 1367. Venue is proper under 28 U.S.C. § 1391.

3. This Court has personal jurisdiction over Defendant as discussed more fully in its Memorandum Opinion and Order of May 16, 2000.

4. Plaintiff owns and uses the CRATE & BARREL and CRATE AND BARREL trade names, trademarks and service marks (the " Marks") in connection with, among other things, providing goods and services in the field of housewares and furniture. The Marks have become one of the most well-known and recognized names, trademarks and service marks in the United States. Plaintiff is the owner of federal trademark and service mark registrations for CRATE & BARREL and CRATE AND BARREL including U.S. Registration Nos. 1,469,514, 1,469,515, 1,512,732, 2,205,822 and 2,205,823. In addition, Plaintiff is the owner of a large number of foreign registrations for the Marks including registrations in Ireland, the United Kingdom and the European Community.

5. Plaintiff also uses the Marks as part of its domain name "crateandbarrel.com," of which Plaintiff is the Registrant. Plaintiff's domain name is linked to Plaintiff's web site which, among other things, advertises and promotes the sale of Plaintiff's goods. Plaintiff has spent considerable money, time and effort into securing, developing and maintaining its web site. Users of the Internet, in the United States and around the world, can purchase products from Plaintiff through its Internet web site.

6. The Marks are valid and protected trademarks because, in part, they have been used exclusively by Plaintiff for over 35 years in connection with its business. In addition, the Marks have achieved incontestable status under the Lanham Act because they have been in continuous use for more than five consecutive years.

7. Defendant has wrongfully adopted the Marks to unfairly compete with Plaintiff by applying for and obtaining the domain name registrations of "crateandbarrel-ie.com" and "crateandbarrel.ie" in an effort to capitalize on the goodwill of the Marks. At the time Defendant obtained these domain name registrations, Defendant was aware of Plaintiff's prior and senior rights in and to the Marks. Defendant was also aware of Plaintiff's domain name "crateandbarrel.com" at the time Defendant obtained its registrations.

8. Defendant is using the Marks on its web site to sell its products in direct competition with Plaintiff. Defendant's website is directed at, among other places, the United States. By adopting and using the Marks on its web site, Defendant is misusing the Marks and has created and will continue to create confusion and deception among the general public as to the origin of Defendant's domain name, web site and products.

9. Plaintiff has no adequate remedy at law for the immediate and irreparable harm it is suffering in the United States due to Defendant's alleged acts of trademark infringement and deceptive trade practices.

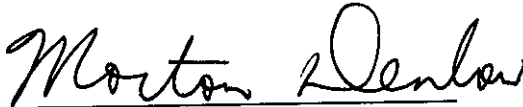
IT IS THEREFORE FURTHER ORDERED that:

1. Defendant and all others in active concert or participation with Defendant, are hereby permanently enjoined from using the "crateandbarrel-ie.com" domain name and mark, the "crateandbarrel.ie" domain name and mark, and any other name and mark confusingly similar to CRATE & BARREL or CRATE AND BARREL, any colorable imitation of the CRATE & BARREL name and mark and/or the CRATE AND BARREL name and mark, and any other name or mark which causes or is likely to cause confusion thereof in any domain name.
2. Defendant and all others in active concert or participation with Defendant, are hereby permanently enjoined from using the CRATE & BARREL or CRATE AND BARREL marks, any colorable imitation of the CRATE & BARREL name and mark and/or the CRATE AND BARREL name and mark, and any other name or mark which causes or is likely to cause confusion thereof, on any web site on the Internet.
3. The registration of the "crateandbarrel-ie.com" and "crateandbarrel.ie" domain names shall be transferred from Defendant to Plaintiff and Defendant shall take all steps necessary to cause the transfer said domain names to Plaintiff by executing the appropriate forms with the organizations responsible for registering domain names.

4. Defendant shall have thirty days from the entry of this Order to take all steps necessary to comply with this Order.
5. This Court shall retain jurisdiction for the purposes of enforcing this Order.
6. This Injunction Order is effective immediately but is not intended as a final order disposing of the entire case until monetary damages are decided. A prove-up for monetary damages is set for 10:30 a.m., July 20, 2000.

DATE: June 21, 2000

TIME: 4:00 p.m.


Morton Denlow
United States Magistrate Judge,
Northern District of Illinois

10134413.1

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing INJUNCTION ORDER has been served via by facsimile to:

Susan Somers Neal
Kevin J. McDevitt
Neal & McDevitt
1603 Orrington Avenue, Suite 2000
Evanston, Illinois 60201

this 21 day of June, 2000.

A handwritten signature in black ink, appearing to read "G. H. Gerstman", is written over a horizontal line.

George H. Gerstman